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## TRANSMITTAL FORM

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<b>Application Number</b>	10/082,101		
	<b>Filing Date</b>	February 26, 2002	
	<b>First Named Inventor</b>	Hajime KIMURA	
	<b>Group Art Unit</b>	2625	
	<b>Examiner Name</b>	S. Perungavoor	
<b>Total Number of Pages in This Submission</b>		<b>Attorney Docket Number</b>	0756-2444

### ENCLOSURES (check all that apply)

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### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Eric J. Robinson, Reg. No. 38,285 Robinson Intellectual Property Law Office, P.C. PMB 955 21010 Southbank Street Potomac Falls, VA 20165
Signature	
Date	August 29, 2005

### CERTIFICATE OF MAILING

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Attorney Docket No. 0756-2444

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Hajime KIMURA

Serial No. 10/082,101

Filed: February 26, 2002

For: DEFECTIVE PIXEL SPECIFYING  
METHOD, DEFECTIVE PIXEL  
SPECIFYING SYSTEM, IMAGE  
CORRECTING METHOD, AND  
IMAGE CORRECTING SYSTEM

) Group Art Unit: 2625

) Examiner: S. Perungavoor

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) Aditya M. Stimpert

)

**AFTER FINAL RESPONSE**

Honorable Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Official Action mailed May 27, 2005, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on February 26, 2002, and April 4, 2005.

Claims 1-14 are pending in the present application, of which claims 1, 2, and 5-12 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 4 of the Official Action rejects claims 1, 3, 5, 7, 9, 11 and 13 as anticipated by U.S. Patent No. 5,886,353 to Spivey et al. The Applicant respectfully traverses the rejection because the Official Action has not established an anticipation rejection.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application. The Official Action asserts that Spivey discloses "a method of determining a defective pixel in a pixel portion, the pixel portion having a plurality of pixels each comprising a photoelectric conversion element, comprising the steps of (Fig. 1)" (page 3, Paper No. 04072005). The Applicant respectfully disagrees.

Figure 1 of Spivey appears to disclose an absorbing layer 10 formed over a pixel array 9. However, Spivey does not teach a pixel portion having a plurality of pixels each comprising a photoelectric conversion element, either explicitly or inherently.

Since Spivey does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Paragraph 5 of the Official Action rejects claims 2, 4, 6, 8, 10, 12 and 14 as obvious based on the combination of Spivey and the Baxes article (Baxes, Gregory A., Digital Image Processing, 1994, John Wiley & Sons, Inc., ISBN 0-471-00949-0, page 82). The Applicant respectfully traverses the rejection because the Official Action has not made a *prima facie* case of obviousness.


As stated in MPEP §§ 2142-2143.01, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim

limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Please incorporate the arguments above with respect to the deficiencies in Spivey. Baxes does not cure the deficiencies in Spivey. The Official Action relies on Baxes to allegedly teach "calculating a ratio between the first and second image signals of each of the plurality of pixels" (page 7, Paper No. 04072005). However, Spivey and Baxes, either alone or in combination, do not teach or suggest a pixel portion having a plurality of pixels each comprising a photoelectric conversion element. Since Spivey and Baxes do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

  
Eric J. Robinson  
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